STATE OF CALIFORNIA

ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

2003 Rulemaking on Appliance Efficiency Regulations	)))	Docket No. 03-AAER-1

ORDER DENYING REQUEST TO AMEND STANDARDS ON COMMERCIAL CLOTHES WASHERS

Introduction and Summary

The California Multi-Housing Laundry Association has submitted a petition requesting that the Energy Commission amend its energy and water efficiency standards for commercial clothes washers. This Order concludes that the Energy Commission should take no action and that the current standards should remain unchanged.

Background

In February 2002 the Commission adopted efficiency standards for several appliances, including commercial clothes washers ("CCW"). The CCW standards are in three parts:

> effective January 1, 2005, a minimum level of energy efficiency, expressed as "modified energy factor" ("MEF") which is the ratio of the capacity of the clothes container (in cubic feet) to the total energy consumption in a typical wash and rinse cycle (in kilowatt-hours);
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> effective January 1, 2007, a maximum level of water consumption, expressed as "water factor" ("WF"), which is the ratio of the water consumption in a typical wash and rinse cycle (in gallons) to the capacity of the clothes container (in cubic feet); and
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> effective January 1, 2005, a requirement that top-loading semi-automatic washers and suds-saving washers have an unheated rinse water option.

(Cal. Code Regs., tit. 20, § 1605.3, subds. (p)(1) - (2).)

On February 6, 2004, the California Multi-Housing Laundry Association ("CMLA") filed a petition to repeal the CCW standards. (Although the petition nominally covers all of the standards in section 1605.3(p), it never discusses the unheated rinse water requirement, and no opponent of the standards ever referred to that part of the standards. We assume, therefore, that the petition is intended to cover only the MEF and WF standards.) CMLA represents "route operators," which own and operate washing machines in apartment buildings and dormitories. On March 3, 2004, the Energy Commission granted the petition and ordered "that the issues raised by the CMLA petition shall be considered in Docket No. 03-AAER-1, under the direction of the Efficiency Committee." (Order 04-0303-02, p. 2.) Granting a petition for rulemaking does not imply anything about the merits of the relief requested; it merely indicates that the Commission will consider the matter.

On May 27 and 28, 2004, the Committee held a public workshop. The notice of the workshop indicated that the CMLA petition would be considered. Representatives of CMLA, the Association of Home Appliance Manufacturers ("AHAM"), a route operator, and a clothes washer manufacturer spoke in favor of repealing the standards. The Commission staff, Pacific Gas & Electric Company, and the Natural Resources Defense Council spoke in favor of maintaining the standards. Some of those participants also submitted written comments. In addition, the Staff included a detailed discussion of the arguments made by the petitioners in a Staff Report that was made available before the workshop.

Discussion

In its petition and other written materials, CMLA has made four arguments in support of repeal of the standards. Most of the arguments, which are interrelated, concern the feasibility and cost-effectiveness of the standards. (Public Resources Code section 25402(c)(1) requires that the Commission's appliance standards "shall be based on feasible and attainable efficiencies or feasible improved efficiencies . . . [and] shall be drawn so that they do not result in any added total costs to the consumer over the designed life of the appliances concerned.") We discuss each argument in turn.

"The standards are not technically feasible on a wide-scale basis." [1]

CMLA does not argue that the standards are not "based on feasible and attainable efficiencies or feasible improved efficiencies"; CMLA only challenges the

[1] Each one of the argument headings is taken from CMLA's May 28, 2004 letter in support of the petition.

Staff's assertion that there are 187 models that currently meet the MEF and WF standards. CMLA claims that 72 of the models have been discontinued, and that Staff has mischaracterized units with different types of options (e.g., coin drop versus payment card) as being different models when they should be considered the same model. Yet CMLA acknowledges that one manufacturer makes three complying models – and that manufacturer, Alliance Laundry Systems, notes that a total of seven manufacturers make a total of thirteen complying models. (Letter to Michael Martin, CEC from Phillip J. Manthei, Alliance Laundry Systems (May 27, 2004), p. 1.) The presence of even one complying model demonstrates that the standards meet the statutory feasibility criterion.[2]

"There are not effective top-load washers and economically viable front-load washers that meet the energy factor standard."

Most of the models that meet the current standards are front-loaders. CMLA asserts, in a letter submitted before it filed its petition, that some top-loading machines that meet the standards have unsatisfactory rinse performance. (Letter from Governmental Advocates, Inc. to Chairman William J. Keese (January 26, 2004), pp. 1 - 2.) We are inclined to doubt that assertion, for several reasons. First, CMLA did not cite any specific examples of poor performance, nor did it raise the issue in its petition or in its subsequent comments. Moreover, there is a statewide rebate program for commercial washing machines, in which numerous toploading machines that meet the standard have qualified. The organization that runs the program has received no complaints about washer performance. (May 28, 2004 workshop transcript ("May 28 Trans."), p. 114.)

"The standards will disadvantage California retailers."

Throughout the history of the Commission's adoption of appliance efficiency standards, opponents have consistently raised the specter of California consumers going out of state to buy noncomplying models in other states. The first standards went into effect in 1977, but we have yet to see any evidence of significant out-of-state purchases. (Indeed, no retailers appeared in the rulemaking proceeding to support the CCW petition.) Moreover, an out-of-state purchase strategy would fail for any machine intended for installation as part of any building construction in California for

[2] It is possible that a standard could be "based on feasible and attainable efficiencies or feasible improved efficiencies" even if there was no complying model at the time the standard is adopted. However, because there are models that meet the CCW standards, we need not address that possibility here.

which a building permit is required, because California's building standards prohibit installation of appliances that do not comply with the state's efficiency standards, no matter where purchased. (Cal. Code Regs., tit. 24, §§ 110, subd. (a), 111.) Finally, CMLA's assertion that purchasers would go out of state is dependent on CMLA's assertion that the standards are not cost-effective.[3] We now turn to that claim.

"The standards are not cost-effective in master-metered multi-unit dwellings."

CMLA presents a cost analysis that purports to show that the standards are not cost-effective for laundry route operators, because, CMLA asserts, route operators will have to pay more for complying machines but they will not be able to raise the prices that they charge for using the machines by an amount great enough to make up the increased first cost. We find that CMLA's numbers are incorrect, and that even if they were correct they would reflect not a problem of cost-effectiveness but rather problems of market allocation of costs and benefits among route operators and apartment owners, and of potentially unequal bargaining power among large and small route operators.

Several of the assumptions underlying CMLA's analysis appear incorrect. First, CMLA assumes a cost differential between complying machines and noncomplying machines of $450. (May 28 Letter, p. 3.) However, CMLA was comparing front-load units to top-load units. The latter tend to have more features that increase cost independently of efficiency (October 15, 2003 Hearing Transcript, p. 23); moreover, it is reasonable to believe that the costs of complying models will come down once the standard is in place (May 28 Trans., p. 113.) Second, CMLA's analysis assumes a 6-year life for equipment, in contrast to our Staff's estimate of 8 years. (California Energy Commission 2001 Update, Assembly Bill 970 Appliance Efficiency Standards Life Cycle Cost Analysis, Publication P400-01-028, Page 12). Third, CMLA estimates that the typical machine is used 0.3 times per day per unit (May 28 Letter, p. 3), yet DOE's analyses indicates typical usage is 1.07 loads per day (Department of Energy - Federal Energy Management Program, How to Buy Energy-Efficient Family-Sized Commercial Clothes Washers (November 2000).) Indeed, it appears to us that if a typical machine is being used only 0.3 per day per unit, then there are too many machines in the building.

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[3] Even if the standards did "disadvantage California retailers," that fact alone would not make the standards non-cost-effective, for the statutory cost-effectiveness test examines cost-effectiveness to the consumer. (Pub. Resources Code, § 25402, subd. (c)(1).) Effects on California business are, nevertheless, a factor that we must consider in rulemaking proceedings. (Gov't Code, §§ 11346.3, subd. (a).)

Even if we accept all of CMLA's numbers, CMLA acknowledges that the *worst* case for route operators is that they would have to raise the price of a wash by $0.33 in 3-unit apartment buildings in order to break even. (May 28 Letter, p. 3.) The necessary price rise is even less in larger buildings: $0.20 in 4-unit buildings, $0.14 in 5-unit buildings, $0.10 in 6-unit buildings, and $0.07 in 7-unit buildings. (*Id.*, p. 4.) (According to CMLA approximately 75 percent of the apartment buildings in Los Angeles that use laundry route operators are larger than 7 units (May 28 Letter, p. 3), so the price rise in most buildings would be even less.) In sum, in all but 3-unit apartment buildings, the cost of the standards can be more than made up by a simple 25-cent price increase (all price changes are in 25-cent increments, because the machines accept only quarters). (Moreover, most of the six-unit and smaller buildings tend to use remanufactured machines, to which the standards do not apply at all. (May 28 Trans., pp. 88, 90).) Indeed, it appears that such a price increase would result in a substantial profit for all buildings other than 3-unit buildings (even after accounting for the likely slight decline in usage due to a 25-cent price increase).

CMLA argues, though, that route operators will not be able to recover their increased costs by raising the price of a wash. CMLA notes that route operators have contracts with building owners that allocate the revenues from washing machines between the operator and the owner, and that building owners may not agree to give the route operators a large enough portion of the increased price. (May 28 Trans., pp. 93 - 94, 101 – 102.) But that is a problem of economic power, not of cost-effectiveness – as is CMLA's claim that small route operators will be less able to absorb or make up for any price increases than will larger operators. (*Id.*, pp. 92 - 97.)

The fact is undeniable that the CCW standards are very cost-effective: that is, the total amount of money that Californians will pay as a result of any cost increases that result from the standards will be more than made up for by the reductions in energy and water costs that result from the standards. All Californians will benefit from the standards' reductions in energy use, water use, and water treatment, and from the environmental benefits that flow from those reductions. It would be unfair to the citizens to deny them those considerable benefits, just because market forces might – and we repeat, we do not accept CMLA's numbers – allocate those benefits in a manner that is somewhat less than perfectly equitable for one discrete segment of washing machine purchasers.

Finally, even if we believed that the standards are not cost-effective from the standpoint of the laundry route operator, that would not necessarily cause the standards to violate the statutory cost-effectiveness test. It is far from clear that the "consumer"

in this unusual context is the route operator; although the route operator purchases the machine, the person using the machine causes it to use energy. (Indeed, this "split incentive problem" – where the purchaser of an appliance has no incentive to buy a higher-efficiency machine because she does not use it, but the one who does use it and pay the energy bills has no control over the choice of the machine – exists wherever a builder or landlord is purchasing appliances, and it is a primary reason why the Legislature has directed the Commission to establish appliance standards.) In addition, any appliance efficiency standard will inevitably fail to be cost-effective for some individuals, particularly those who rarely use the appliance (e.g., people with air conditioners in cool climates); if energy use is much less than that of typical consumers, the additional first cost imposed by the standard might not be recovered in energy savings. Yet that is not a bar to adoption of the standard. The appropriate test is cost-effectiveness to the typical consumer; no standard could ever be adopted if "cost-effectiveness to every single person" were the criterion.

Conclusion

The petition does not raise issues that warrant a repeal of the energy efficiency or the water efficiency standards for commercial clothes washers. Therefore, the standards should not be amended.

July 14, 2004

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